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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,102

06/19/2006

Thomas Klettke

58741US004

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09/25/2009

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EXAMINER

YOON, TAE H

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

09/25/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/564,102	<b>Applicant(s)</b> KLETTKE ET AL.	
	<b>Examiner</b> Tae H. Yoon	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recited definition for R1, R2, R3, R4 and R5 in claim 6 improperly broadens scope of the amended claim 1 and lacks antecedent basis in claim 1. Thus, it is indefinite. For example, R1 can be only C<sub>1</sub>-C<sub>22</sub> alkyl and all other functional group cannot be present in N-alkyl substituted aryl (or alkyl) sulfonic acid amides in claim 1. The same logic is applied to R2, and R3 cannot be H. R5 defined as the chemical linkage to a polymer is confusing and indefinite since the alkyl as R5 recited in claim 1, for example, cannot be linked to a polymer.

The recited "benzene sulfonic acid amide" in claim 8 improperly broadens scope of claim 1 and lacks antecedent basis in claim 1. Thus, it is indefinite.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhardt et al (US 2003/0153726 A1) in view of Schmitt et al (US 4,167,618).

Rejection is maintained for reason of record with following response.

Applicant states that “amides of alkylsulfonic acids and arylsulfonic acids” does not only comprise amides having a  $\text{SO}_2\text{-NHR}$  group, but also amides comprising a  $\text{SO}_2\text{-NH}_2$  group or a  $\text{SO}_2\text{-NR}_2$  group, wherein R is different from H. Applicant asserts unexpected result based on the filed 1.132 declaration, but it is insufficient to overcome the rejection for following reasons;

1. Applicant has admitted that amides of alkylsulfonic acids and arylsulfonic acids would encompass the instant species, and thus there would be no dispute that the instant compound with  $\text{SO}_2\text{-NHR}$  group would be an obvious variation of the amides taught by Eckhardt et al.

2. With respect to the 1.132 declaration, a comparison must be based on the closest prior art and not on applicant's own choice, especially in view of the fact that the instant claim recites “comprising” which permits presence of other components such as antacid-acting compound taught by Eckhardt et al. Thus, the data in said 1.132 declaration ( $\text{SO}_2\text{-NHR}$  vs.  $\text{SO}_2\text{-NR}_2$ ) have little probative absent an antacid-acting compound. Also, it does not show  $\text{SO}_2\text{-NH}_2$  group, and as a matter of fact, said  $\text{SO}_2\text{-NH}_2$  group in Entry 14 of table 6 of specification has yielded has very similar results as  $\text{SO}_2\text{-NHR}$  group. Thus, said 1.132 declaration little probative value and applicant failed to show unexpected result. Even if somehow said 1.132 declaration (and the data in specification) had probative value, scope of claims is broader than said showing.

3. Some claims still recite amides comprising a  $\text{SO}_2\text{-NH}_2$  group.

Claims 1-4, 6-11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zech et al (US 6,894,144 or WO 01/17483).

Rejection is maintained for reason of record with above response.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tae H Yoon/  
Primary Examiner  
Art Unit 1796

THY/September 23, 2009